

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1062 be amended to read as follows:

- 1 Page 3, between lines 11 and 12, begin a new paragraph and insert:  
2 "SECTION 3. IC 34-23-2-1, AS AMENDED BY P.L.3-2008,  
3 SECTION 242, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This section does not apply**  
5 **to an abortion performed in compliance with:**  
6 **(1) IC 16-34; or**  
7 **(2) IC 35-1-58.5 (before its repeal).**  
8 ~~(a)~~ **(b)** As used in this section, "child" means an unmarried  
9 individual without dependents who is:  
10 (1) less than twenty (20) years of age; or  
11 (2) less than twenty-three (23) years of age and is enrolled in a  
12 postsecondary educational institution or a career and technical  
13 education school or program that is not a postsecondary  
14 educational program.  
15 **The term includes a child in utero as verified by medical evidence**  
16 **and a medical record.**  
17 **(c) As used in this section, "child in utero" means a member of**  
18 **the species homo sapiens, at any stage of development, who is**  
19 **carried in the womb.**  
20 ~~(b)~~ **(d)** An action may be maintained under this section against the  
21 person whose wrongful act or omission caused the injury or death of a  
22 child. The action may be maintained by:  
23 (1) the father and mother jointly, or either of them by naming the  
24 other parent as a codefendant to answer as to his or her interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

~~(c)~~ **(e)** In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

~~(d)~~ **(f)** In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

~~(e)~~ **(g)** In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

~~(f)~~ **(h)** Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; or

(B) twenty-three (23) years of age, if the child was enrolled in a postsecondary educational institution or in a career and technical education school or program that is not a postsecondary educational program; or

(2) the date of the child's last surviving parent's death;

whichever first occurs.

~~(g)~~ **(i)** Damages may be awarded under subsection ~~(c)(2)~~ **(g)(2)** only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

~~(h)~~ **(j)** Damages awarded under subsection ~~(c)(1)~~, ~~(c)(2)~~, ~~(c)(3)(C)~~, **(g)(1)**, **(g)(2)**, **(g)(3)(C)**, and ~~(c)(3)(D)~~ **(g)(3)(D)** inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

(2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or

(3) a custodial grandparent of the child if the child was not survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child

1 while the child was alive is not entitled to any recovery under this  
2 chapter.

3 **(k) This section does not affect or supersede any other right,**  
4 **remedy, or defense provided by any other law."**

5 Page 3, line 13, delete "applies" and insert "**and IC 34-23-2-1, as**  
6 **amended by this act, both apply**".

7 Renumber all SECTIONS consecutively.

(Reference is to HB 1062 as printed February 17, 2009.)

---

Representative Walorski